



# CVPIA Business Practice Guidelines Listening Session

January 4, 2021



# Friant Division Contributions to CVP Restoration Fund

- Mitigation & Restoration Charges: \$6/AF for irrigation, \$12/AF for M&I beginning in 1993
- “Friant Surcharge”: \$4/AF in 1993, \$7/AF after 1999

## CVP Restoration Fund Revenue Breakdown (1993-2017)

Water User M&R Receipts	\$ 551,000,000
<i>(Friant Contributions of ~32%)</i>	<i>\$ 176,000,000</i>
Friant Surcharge	\$ 121,000,000
Other CVPIA Water Charges	\$ 5,000,000
Total Water User Contributions	\$ 677,000,000
<b>Total Friant Contributions</b>	<b>\$ 297,000,000</b>



# Support for CVPIA BPGs Review Process

- Reclamation's CVPIA Business Practice Guidelines (BPGs) review process was open and transparent.
- Reclamation did not universally accept water user requests; however, the process and its outcome seemed fair and balanced.
- The process involved dozens of briefings, public workshops, provision of background documents, opportunities for review and comment, and individual stakeholder meetings since early 2019.
- Clarification and resolution of these issues is long overdue and is also necessary due to the recent *NCPA v. U.S.* court decision.



# Support for Fish Screen\* Determination

- Section 3406(b)(19) costs—assisting the State of California with fish screens—are not reimbursable.
- Section 3406(b)(19) states that the “[S]ecretary’s share of costs associated with activities authorized under this paragraph shall not exceed 50 percent of the total cost of any such activity.”
- Fish screen costs for CVP-related facilities such as the Glenn-Colusa project identified in 3406(b)(18)\*\*—immediately prior to 3406(b)(19)—have specific cost-shares (e.g., GCID 75% non-reimbursable/25% state).
- Sections 3406(b)(4) and 3406(b)(5) also have specific cost-share authorities: 37.5% reimbursable (as main project features)/37.5% non-reimbursable/25% state share.

\*Section 3406(b)(19); formerly 3406(b)(21)

\*\* Formerly 3406(b)(20)



# Support for Fish Screen Determination (cont.)

- In contrast, Section 3406(b)(19) directs the Secretary to “[A]ssist the State of California” in efforts to avoid juvenile fish losses.
- Congress thus made a distinction between CVP project-related fish screens and helping the State of California with efforts to avoid fish losses elsewhere.
- This language, and the specific cost-share language in preceding sections, leads to the conclusion that if Congress had meant for the Secretary’s portion in section 3406(b)(19) to be reimbursable, it would have said so.



# Support for 3406(b)(1) Determinations

- Reclamation's allocation of CVPIA Section 3406(b)(1) costs for non-CVP facilities and streams is consistent with 2003 BPGs determination.
- Costs for investigations, studies, etc. should not be allocated to all project purposes where the Act is silent on reimbursement.
- This determination is consistent with P.L. 92-149, which states “all costs heretofore or hereafter incurred from funds appropriated to the Bureau of Reclamation ... for (1) investigations and surveys of potential projects... and (5) general engineering and research studies shall be nonreimbursable.”
- Costs for investigations, studies, etc. undertaken under CVPIA section 3406(b)(1) also should not be identified as wholly reimbursable.





# Support for Equal Treatment of Water and Power Pool Credits

- Water and power Mitigation and Restoration (M&R) payments should be treated equally re: reimbursement—not as proposed in the Nov. 2019 draft BPGs

*Folsom Dam & Reservoir*



# Requested Changes to BPGs

- The *NCPA v. U.S.* decision mandates proportionality, but CVPIA provides discretion as to how.
- Reclamation's decision on implementing proportionality should not result in increased collections from, or allocation of costs to, water users.





# Requested Changes to BPGs (cont.)

- Ensure consistency between the power cost allocation and the 2020 CVP cost allocation study.
  - Reclamation should ensure that any change to power cost allocations should: (1) be wholly consistent with the most recent CVP cost allocation study, and (2) not affect water user repayment obligations.

